

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

U.S. Equal Employment Opportunity Commission

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
U.S. EEOC - San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105

DEFENDANTS

Crime Scene Cleaners, Inc. 5

County of Residence of First Listed Defendant Alameda
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

C11-4269-MJ

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	<input type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		PROPERTY RIGHTS	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input checked="" type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. Section 2000e et seq., 42 U.S.C. Section 1981a

Brief description of cause:

To correct unlawful employment practices on the basis of sex and to provide appropriate relief.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION **DEMAND \$** **CHECK YES only if demanded in complaint:** **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): **JUDGE** **DOCKET NUMBER**

DATE **SIGNATURE OF ATTORNEY OF RECORD**

Cindy O'Hara

FOR OFFICE USE ONLY

RECEIPT # **AMOUNT** **APPLYING IFF** **JUDGE** **MAG. JUDGE**

1 WILLIAM R. TAMAYO -- #084965 (CA)
 2 JONATHAN T. PECK -- #12303 (VA)
 2 DAVID F. OFFEN-BROWN -- #063321 (CA)
 3 CINDY O'HARA -- #114555 (CA)
 3 EQUAL EMPLOYMENT OPPORTUNITY
 4 COMMISSION
 4 San Francisco District Office
 5 350 The Embarcadero, Suite 500
 5 San Francisco, California 94105
 5 Telephone: (415) 625-5653
 6 Facsimile: (415) 625-5657

7 Attorneys for Plaintiff Equal Employment Opportunity Commission

8

9

10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**

12 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, CV Civil Action No. 4269
 13)
 14 Plaintiff,) **COMPLAINT**
 15 v.) Civil Rights - Employment Discrimination
 16 CRIME SCENE CLEANERS, INC.,)
 17 Respondent.) JURY TRIAL DEMAND
 18)
 19)

20 **NATURE OF THE ACTION**

21 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil
 22 Rights Act of 1991 to correct unlawful employment practices on the basis of sex, and to provide
 23 appropriate relief to Ms. Kristi Nunez who was aggrieved by Defendant's unlawful practices.
 24 Plaintiff alleges that Defendant, Crime Scene Cleaners, Inc., unlawfully refused to hire Ms.
 25 Nunez because of her sex. Plaintiff further alleges that Defendant failed to make and maintain
 26 records as required by Section 709(c) of Title VII, 42 U.S.C. § 2000e-8(c).

27 //

28 //

2011 AUG 30 AM 11:20
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 E-filing (55)

MEJ

JURISDICTION AND VENUE

2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
3 1343 and 1345. This action is authorized and instituted pursuant to Section 706 (f) (1) and (3) of
4 Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), 42 U.S.C. § 2000e-5 (f) (1)
5 and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a).

6 2. Venue is proper in the United States District Court for the Northern District of
7 California because the unlawful employment practices alleged herein were committed the State
8 of California, in the County of Alameda, California, within the jurisdiction of the United States
9 District Court for the Northern District of California. Venue is therefore proper in the United
10 States District Court for the Northern District of California.

INTRA-DISTRICT ASSIGNMENT

12 3. This action is appropriate for assignment to San Francisco/Oakland because the
13 because the unlawful employment practices alleged were committed within Alameda County,
14 within the jurisdiction of the San Francisco/Oakland Division.

PARTIES

16 4. Plaintiff, the Equal Employment Opportunity Commission (“Commission”), is the
17 agency of the United States of America charged with the administration, interpretation and
18 enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and
19 (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

20 5. At all relevant times, Defendant Crime Scene Cleaners, Inc. ("Defendant") has
21 continuously been, and is now, a California corporation, qualified and doing business in the state
22 of California and has continuously had and does now have at least 15 employees.

23 6. At all relevant times, Defendant has continuously been, and is now, an employer
24 engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of
25 Title VII, 42 U.S.C. § 2000e (b), (g) and (h).

26 //
27 //
28 //

STATEMENT OF CLAIMS

FIRST CLAIM FOR RELIEF

Violation of Title VII of Civil Rights Act for Discrimination Based on Sex

7. More than thirty days prior to the institution of this lawsuit, Charging Party Kristi Nunez (“Charging Party”) filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7 8. Since at least on or about November 21, 2006, Defendant has engaged in unlawful
8 employment practices of discrimination based on sex in violation of Section 703 (a) (1) of Title
9 VII, 42 U.S.C. § 2000e-2(a)(1), by refusing to hire Charging Party because of her sex. Charging
10 Party, a woman, applied for and was interviewed by telephone and then in person for a position
11 with Defendant as a crime scene cleaner. During the course of her interviews, Charging Party
12 was asked questions which indicated that her gender was a significant factor in Defendant's hiring
13 decision, including but not limited to how comfortable she would be working with "all men," if
14 she was married, and if she had a jealous husband. Although she was clearly qualified for the
15 position, she was not hired, and a man was hired instead.

16 9. The effect of the practices complained of above in paragraph 8 has been to deprive
17 Charging Party of equal employment opportunities and otherwise adversely affect her
18 employment status because of her sex.

19 10. The unlawful employment practices complained of above in paragraph 8 were and
20 are intentional.

21 11. The unlawful employment practices complained of above in paragraph 8 were
22 done with malice and/or reckless indifference to the federally protected rights of Charging Party.

SECOND CLAIM FOR RELIEF

Violation of Title VII of Civil Rights Act for Failure to Make and Preserve Records

25 12. Plaintiff Commission hereby incorporates the allegations of paragraphs 1 through
26 8 above as though fully set forth herein.

27 13. Since at least on or about November 21, 2006, Defendant has failed, in violation of
28 Section 709(c) of Title VII, 42 U.S.C. § 2000e-8(c), to make and preserve records relevant to the

1 determination of whether unlawful employment practices have been or are being committed.
2 Defendant has informed Plaintiff Commission that it keeps few formal records of either
3 applicants or employees, and none specifically related to their gender.” Plaintiff is further
4 informed and believes that Defendant has failed to retain application documents and personnel
5 records and reports as required by said statute.

6 **PRAYER FOR RELIEF**

7 Wherefore, the Commission respectfully requests that this Court:

8 A. Grant a permanent injunction enjoining Defendant, its officers, successors,
9 assigns, and all persons in active concert or participation with it, from engaging in discrimination
10 based on sex against its applicants for employment and employees.

11 B. Order Defendant to institute and carry out policies, practices, and programs which
12 provide equal employment opportunities for women, and which eradicate the effects of its
13 unlawful employment practices.

14 C. Order Defendant to make whole Charging Party by providing appropriate back
15 pay, lost wages and benefits with prejudgment interest, and other affirmative relief necessary to
16 eradicate the effects of its unlawful employment practices.

17 D. Order Defendant to make whole Charging Party by providing compensation for
18 past and future pecuniary losses resulting from the unlawful employment practices complained of
19 above, including but not limited to medical expenses or other out of pocket expenses in amounts
20 to be determined at trial.

21 E. Order Defendant to make whole Charging Party by providing compensation for
22 past and future non-pecuniary losses resulting from the unlawful practices complained of above,
23 including but not limited to pain and suffering, emotional distress, indignity, loss of enjoyment of
24 life, loss of self-esteem and humiliation, in amounts to be determined at trial.

25 F. Order Defendant to pay Charging Party punitive damages for its malicious and
26 reckless conduct complained of above, in amounts to be determined at trial.

27 G. Order Defendant to make and preserve all records, in accordance with the
28 provisions of Section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-8(c),

1 relevant to the determination of whether unlawful employment practices have been or are being
 2 committed.

3 H. Grant such further relief as the Court deems necessary and proper in the public
 4 interest.

5 I. Award the Commission its costs of this action.

6 **JURY TRIAL DEMAND**

7 Pursuant to the provisions of Federal Rule of Civil Procedure 38(b), Plaintiff hereby
 8 demands a jury trial.

9
 10 P. DAVID LOPEZ
 11 General Counsel
 12 JAMES L. LEE
 13 Deputy General Counsel
 14 GWENDOLYN YOUNG REAMS
 15 Associate General Counsel

16
 17 EQUAL EMPLOYMENT OPPORTUNITY
 18 COMMISSION
 19 Office of the General Counsel
 20 Washington, DC 20507

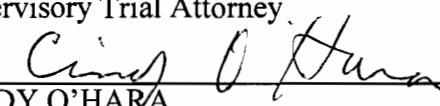
21 Dated: August 30, 2011


 22 WILLIAM R. TAMAYO
 23 Regional Attorney

24 Dated: August 30, 2011


 25 DAVID F. OFFEN-BROWN
 26 Supervisory Trial Attorney

27 Dated: August 30, 2011


 28 CINDY O'HARA
 29 Senior Trial Attorney

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